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2050 Main Street, Suite 1100  
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**MAILED**

**AUG 29 2011**

**OFFICE OF PETITIONS**

In re Patent No. 7,189,161	:	
Issue Date: March 13, 2007	:	
Application No. 10/080,816	:	<b>ON PETITION</b>
Filed: February 21, 2002	:	
Patentee(s): Michael S. Wiltshire, et. al.	:	

This is a decision on the petition under 37 CFR 1.378(c), filed on August 15, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **dismissed**.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. § 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). The petition lacks items (1) and (3) above.

With respect to item (1) above, the statement of unintentional delay is not considered to be submitted by a proper party as required by 37 CFR 1.378(d), which states that any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest.

In this regard, the petition is signed by one of four inventors. An unsigned paper or one not properly signed by a person having authority to prosecute an application or patent is not entered. Therefore, a properly signed petition under 37 CFR 1.378(c), by all the inventors is required, unless there is an assignee of entire, right, title and interest that complied with the requirements of 37 CFR 3.73(b).

37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain

of title from the original owner to the assignee (e.g., copy of an executed assignment submitted for recording) or by specifying (e.g., reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A blank Statement under 37 CFR 3.73(b) is enclosed for petitioner's convenience.

With respect to item (3), a review of the record shows that petitioner submitted payment of \$1,300 for the payment of the maintenance fee and surcharge for the above-identified patent. The fee payment of \$1,300 has been applied as follows: \$490 for payment of the 3 ½ year small entity maintenance fee and \$810 towards the unintentional late payment surcharge. However, the proper surcharge for a patent expired unintentionally after the six months grace period is \$1,640. Therefore, this patent cannot be reinstated until the deficiency of \$830 (1640-810) has been submitted.

Further, it is noted that the file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of correspondence address should be filed. However, Petitioner should note that a change of correspondence address will not affect the fee address. Therefore, if petitioner desires to receive future correspondence regarding maintenance fees for the above patent, a "Fee Address Indication" and/or "Request for Customer Number" forms must be submitted. See attached USPTO forms PTO/SB/47 and PTO/SB/125.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within **TWO (2) MONTHS** from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

**Any petition for reconsideration of this decision must be accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(f).** The petition for reconsideration must include the lacking item(s) noted above, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner.

Further correspondence with respect to this matter should be addressed as follows:

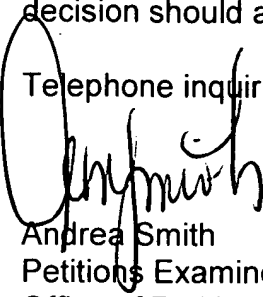
By mail:                   Mail Stop PETITION  
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By hand:                 U.S. Patent and Trademark Office  
                              Customer Service Window, Mail Stop Petitions  
                              Randolph Building  
                              401 Dulany Street  
                              Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

If petitioner does not wish to pursue reinstatement of this expired patent, petitioner may request a refund totaling \$3,695, which includes the maintenance fee and surcharge. The request should be made in writing and addressed to: Mail Stop 16, Director of the U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

Telephone inquiries should be directed to the undersigned at (571) 272-3226.



Andrea Smith  
Petitions Examiner  
Office of Petitions

Enclosures: Privacy Act Statement  
Blank Statement under 37 CFR 3.73(b) (FORM PTO/SB/96)  
Fee Address Indication Form (FORM PTO/SB/47)  
Request for Customer Number Form (FORM PTO/SB/125)

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